IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 8524 of 2001

Between:

K.M.Basha, S/o. Chinnaveranna,
Aged 30 years, R/o. 12/177, Badvel Road,
Peddi Reddy Street, Mydukur, Cuddapah District.

..... PETITIONER

AND

1. The A.P.S.R.T.C., Rep. by its Chairman & Managing Director,
   Musheerabad, Hyderabad.
2. The A.P.S.R.T.C., Rep. by its Regional Manager,
   Cuddapah Region, Cuddapah District.
3. The A.P.S.R.T.C., Rep. by its Depot Manager,
   Proddatur Depot, Proddatur,
   Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction or writ particularly one in the Nature of Writ of Mandamus declaring the action of the Respondents in reinstating the Petitioner into service with immediate effect and as a measure of punishment his pay be reduced to that of minimum of Driver Grade-II scale for a period of two years which shall have effect on his future increments and the period of absence from the date of removal from service till he reports for duty be treated as not on duty for the purpose of leave and increments by its proceedings No.St/20B(62)/2000-RM'C',
dt. 4-11-2001 is wholly illegal, arbitrary, unjust and contrary to law and violative of

Articles 14, 16 & 21 of the Constitution of India and consequently direct the respondents to pay the regular pay scale to the petitioner and the period of absence from the date of removal from service till he reports for duty be treated as not on duty for the purpose of leave and increments and also pay the back wages with arrears.

Counsel for the Petitioner: MS.B.MALLESWARI

Counsel for the Respondents: MR.A.V.SIVAIAH, SC FOR APSRTC

The Court made the following:

O R D E R:

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent-Corporation.

The petitioner, who was working as Driver in respondent-Corporation, filed this writ petition, *inter alia,* seeking to assail the impugned order dated 04-11-2001, passed by the second respondent herein, withholding the other benefits while reinstating him into service with immediate effect.

The case of the petitioner is that he has been working as a Driver since 1985. However, in an accident, which occurred on 30-01-2000, though not fatal, a departmental enquiry was conducted against the petitioner and was ultimately removed from service. However, in the appeal filed against the said orders, the second respondent, though ordered for reinstatement of the petitioner into service, directed to reduce the pay to that of minimum of a Driver Grade II scale for a period of two years, which shall have effect on his future increments also.

The learned counsel appearing for the petitioner submits that even by taking into account the nature of accident as occurred, nothing can be attributed or any negligence can also be pointed out against him. In fact, the petitioner tried to save the passengers and has taken all precautions, but in spite of the same, the accident occurred.

The learned standing counsel appearing for respondent-Corporation sought to sustain the impugned action on the ground that having regard to the damage suffered to the bus, the punishment imposed is justified.

Considering the submissions made and also on perusal of material on record, the question, which falls for consideration is whether, under the facts and circumstances, the punishment imposed in regard to the scale of pay to the minimum of Driver Grade II scale is justified.

There is no dispute to the fact that the petitioner had any remarks earlier as Driver and nothing has been attributed for any such similar acts. However, it is only in the accident, which occurred on 30-01-2000, the bus was damaged. Admittedly, there are no serious

injuries, much less, any casualties as a result of such an accident. The petitioner, who was apparently trying to save the animals, which were coming from opposite direction, lost control over the bus and hit the causeway wall, thereby resulting in the said accident. Even on meeting of the facts and surroundings, such accident certainly shows that the petitioner has taken greater care, which can be evident from the fact that it has not ultimately turned out to be a fatal one. In the circumstances, the question of imposing such punishment in regard to the scale, though ordering his reinstatement, is not justified. Further, reducing of pay to the minimum of Driver Grade II scale for a period of two years is quite a serious and substantive one and it has no nexus to the gravity of the offence as alleged. Taking into consideration the totality of circumstances, it would suffice, in the interest of justice, to award withholding of one increment rather than imposing reduction of pay to that of minimum of Driver Grade II scale for a period of two years.

In the circumstances, the writ petition is allowed partly, setting aside the punishment of reduction of pay to minimum of Driver Grade II scale for a period of two years and there shall be stoppage of one increment. No costs.

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31-12-2004.

Lrkm.

To

1. The Chairman & Managing Director, A.P.S.R.T.C.,
   Musheerabad, Hyderabad.
2. The Regional Manager, A.P.S.R.T.C.,
   Cuddapah Region, Cuddapah District.
3. The Depot Manager, A.P.S.R.T.C.,
   Proddatur Depot, Proddatur,
   Cuddapah District.

4. 2CD copies.

That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Thirty first day of December Two thousand and Four.

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ASSISTANT REGISTRAR